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SIPDIS

SENSITIVE

STATE FOR AC/CB, NP/CBM, VC/CCB, L/ACV, IO/S  
SECDEF FOR OSD/ISP  
JOINT STAFF FOR DD PMA-A FOR WTC  
COMMERCE FOR BIS (GOLDMAN)  
NSC FOR CHUPA  
WINPAC FOR LIEPMAN

E.O. 12958: N/A

TAGS: PARM PREL CWC

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): WRAP-UP FOR  
WEEK ENDING 20 FEBRUARY

REF: A. (A) 2003 HAGUE 2944  
B. (B) STATE 17041  
C. (C) HAGUE 195

This is CWC-24-04.

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SCIENTIFIC ADVISORY BORD CHAIR ADDRESSES WEOG

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¶1. (U) Dr. Tom Inch (UK), Chairman of the Scientific Advisory Board (SAB), participated in the Western European Group (WEOG) meeting on Feb 17 to field questions from WEOG delegations on SAB priorities as well as scientific and technological developments. Inch noted that the SAB, as the technical advisory arm of the Director-General of the OPCW, is in a unique position to analyze how scientific and technological developments in the chemical industry and destruction affect OPCW verification activities, quite apart from the political concerns that often drive States Party debate.

¶2. (U) Not one to mince words, Inch complained that a focus on procedural debates, rather than substantive issues, hampers OPCW institutional progress. He observed that delegates lost sight of the object and purpose of the Convention. In particular, he cited "legalistic" interpretations by States Parties regarding non-inclusion of chemically identical salts of treaty-monitored bases in verification as a prime example of States Parties not fulfilling the purpose of the Convention by creating a verification loophole. He also noted the migration of States Parties towards an emphasis on schedules and verification of monitored, known chemicals, rather than attention to the General Purpose Criterion. Having such a focus on schedules for verification and associated prohibitions undermines the object and purpose of the treaty.

¶3. (U) Inch commented that declarations and inspections were intended to be confidence-building measures, not the end-all, be-all of verification, and that novel agents, scientific and technological developments, and inspection tools such as on-site sampling and analysis are critical to effective verification. Inch suggested that increased participation of the SAB as a "peer review" partner in OPCW inspector training, policy development and implementation could be useful in ensuring technological and scientific developments continue to play a prominent role in the execution of the Convention.

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ARTICLE IV/V CONSULTATIONS LAUNCHED

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¶4. (U) The first round of consultations on stabilizing the funding of verification activities under Articles IV and V was launched February 19 by facilitator Johan Verboom of the Netherlands. Seventeen delegations participated in the discussion, which went into overtime and continued follow-on discussions in the halls. Verboom opened the meeting by seeking confirmation that all delegations were prepared to enter discussions on the basis of the proposal put forward by the Advisory Body on Administrative and Financial Matters (ABAF) in November (REF A). While a few (Mexico, Brazil, Italy) said they were still awaiting confirmation from their governments, all agreed to focus discussion on the ABAF proposal. Japan noted that as a matter of policy, budget surpluses should be returned to States Parties, but that it nevertheless was prepared to support the ABAF proposal. Given that this approach had supposedly been agreed to in advance, the discussions covered a surprisingly wide range of views.

¶5. (U) Verboom distributed a draft decision at the meeting (e-mailed to AC/CB) that, like the ABAF recommendation, centered on expanding the Working Capital Fund (WCF) and

extending the repayment period. However, the draft differed in important respects from the ABAF proposal by not spelling out how the fund would be replenished and placing few restrictions on its use. Verboom explained that this language was drawn from other UN-affiliated organizations' regulations concerning WCFs rather than focusing on the unique funding needs that Article IV and V activities impose on the OPCW. The UK led a number of delegations urging that the decision hew more closely to the ABAF line. OPCW Director of Administration Herb Schulz sought to retain maximum flexibility in using an expanded WCF. U.S. Del stressed that the size of the WCF, measures to capitalize it, and regulations governing its drawdown and replenishment would have to be carefully delineated (per REF B).

16. (U) Peter Beerwerth (Germany) argued that revising Financial Regulations was preferable to Verboom's draft language "notwithstanding Financial Regulation 6.3 and 6.4" to expand the WCF. Yu Dunhai (China) noted that the draft decision made no provision for replenishing the WCF for drawdowns of inspector salaries if planned inspections were not carried out (the "fictitious income" problem). Gianpaolo Malpaga (Italy) was not convinced that the current size of the WCF was not sufficient, despite Schulz's explanation that the current, approximate one-month's operating expenses that is the standard for international organizations, needed to be expanded because of the additional layouts required to cover costs of verification under Article IV/V.

17. (U) COMMENT: Notwithstanding the many questions and objections raised at the initial round of consultations, Verboom expressed satisfaction that the groundwork had been laid for more detailed discussion in coming weeks. While that process will obviously re-write much of the draft text, we agree that the initial session was useful for putting down U.S. markers and helping to narrow the scope of future consultations. We are cautiously optimistic that the talks will ultimately result in an EC decision that stabilizes Article IV/V funding while meeting USG requirements for rigorous accounting. The "fictitious income" problem, however, will continue to bedevil OPCW budget planning.

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SOME PROGRESS ON FINANCIAL REGULATIONS  
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18. (U) Facilitator Peter van Brakel (Canada) resumed consultations on outstanding revisions to OPCW Financial Regulations (REF C) by circulating new language (e-mailed to AC/CB) on Regulations 4.11, 6.2, 6.3, and 10.5. Participants in the February 19 discussion succeeded in working through that entire agenda, although several points will be revisited, as many delegations (including possessor state India) did not have instructions, and others (including Russia) were not present. With the caveat that we too did not have final guidance, USDel drew on standing guidance and consultations with AC/CB to steer the discussion in a positive direction.

19. (U) Participants did not reach agreement on revised language for Regulation 6.2 (a), which cites "miscellaneous income received during the financial period" as a budget credit referring to Article IV and V contributions by possessor states. Beerwerth suggested replacing "miscellaneous income" with a reference to "contributions as specified under 5.1 actually received in the financial period," but Ali Ashgar (Technical Secretariat) was adamant that for accounting purposes Article IV and V payments must be counted as "miscellaneous income" or "miscellaneous income - other" rather than as any kind of "contributions." Finding deadlock on that point, facilitator van Brakel asked whether the U.S. would be willing to propose alternate language.

10. (U) At Del's urging, participants supported retaining the formulation "cash surplus" instead of van Brakel's proposed "cash balance" in references to the final (audited) budget in Regulation 6.3., but agreed to use the term "cash balance" in references to the provisional balance during the course of a given financial period. On the margins of the discussion, Arya Sandeep (India) asked whether USDel could accept van Brakel's proposed change to Article 6.3, which stipulates that cash surplus credits are to be applied first against arrears of assessed contributions (current practice) and then against any arrears of Article IV and V payments (a change) before being applied as a credit against future assessments. We said that Washington was still studying that issue, and guessed that Russia, if it were present, would object. Sandeep said he did not know where Delhi would come out on that point.

11. (SBU) Following the consultations, Van Brakel promised to provide DelOff with an advance look at further proposed revisions that he plans to distribute for the next round of discussions, scheduled for March 4. This language, which he asked us not to share with other delegations until he had a chance to consult with them, will include a change to the

Financial Rule defining the role of the Office of Internal Oversight as well as proposed modifications to Regulations 12.1, 12.3, 12.4, and 12.7.

12. (U) Javits sends.

SOBEL